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## LABOUR & E.S.I. DEPARTMENT

### NOTIFICATION

The 29th June 2024

**S.R.O. No. 343/2024**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 29th April 2024 passed in the I.D. Case No. 01 of 2022 by Presiding Officer, Labour Court, Jeypore to whom the industrial dispute between the Senior General Manager (Electrical), Upper Kolab Hydro Electrical Project, OHPC, At Bariniput, Dist. Koraput and Prasanta Kumar Dwibedy, Secretary, Potteru Kshudra Jala Bidyut Shramika Sangha, Gompakonda, Kalimela, Dist. Malkangiri, PIN-764047 and 31 others was referred to for adjudication is hereby published as in the schedule below :—

### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER  
LABOUR COURT, JEYPORE, DIST. KORAPUT

INDUSTRIAL DISPUTE CASE NO. 01 OF 2022

Dated the 29th April 2024

[ U/s. 10 & 12 of the Industrial Disputes Act, 1947 ]

#### *Present :*

Shri Bidyadhar Prusty, M.A., LL.M.,  
Presiding Officer,  
Labour Court,  
Jeypore.

#### *Between :*

The Senior General Manager (Electrical), . . . First Party—Management  
Upper Kolab Hydro Electrical Project, OHPC,  
At Bariniput, Dist. Koraput.

#### *Versus*

Prasanta Kumar Dwibedy, Secretary, . . . Second Party—Workmen  
Potteru Kshudra Jala Bidyut Shramika Sangha,  
Gompakonda, Kalimela, Dist. Malkangiri,  
PIN-764047 and 31 others

*Appearances :*

Shri T. Dash, Advocate	. .	For the First Party—Management
Shri B. Panigrahi & Associates	. .	For the Second Party— Workmen
Date of Argument	. .	05-04-2024
Date of Award	. .	29-04-2024

The matter arises out of a reference submitted by the Appropriate Govt. Under Section 12 (5) read with S. 10(1) (d) of the Industrial Disputes Act, 1947 (Act 14 of 1947) (for brevity herein after referred as I.D. Act, 1947) in the matter of the industrial dispute between both the parties.

1. Brief facts of the case of the 2nd Party Workmen is as follows :—

In their statement of claim the present workmen averred that they are working in the Potteru Small Hydro Electric Project (Operation & Maintenance) at Gompagonda, under Orissa Hydro Power Corporation Ltd. (OHPC), for more than 19 to 27 years. Instead of regularizing their services, the management has shown them as contract labourers by making the payment through different contractors, who never come to the place of their work to supervise or control their work. They contended that they are languishing in the remote area, which is a Naxal hit and Malaria prone area, with false assurances of regularizing their services by the management. While the matter stood thus, regular posts are required for the Potteru Small Hydro Electric Project and for that reason the Senior General Manager (Electrical) as per its letter dated the 6th October 2001 requested the Head Office of the Senior General Manager (Electrical), Upper Kolab Hydro Electrical Project, Bariniput, Jeypore to sanction the posts and to regularize the services of the present workmen who are continuing as contract labourers. The Manager (Electrical) Potteru Electrical Division, Kalimela and the Senior General Manager (Electrical) Upper Kolab Hydro Electric Project in its letter dated the 10th May 2002 recommended the case of the workmen for their absorption under regular establishment in TNE Cadre against the required manpower and requested the Senior General Manager (Electrical), Upper Kolab Hydro Electrical Project to sanction the proposed post for Potteru Small Hydro Electric Project. Further, the Manager, Potteru Electrical Division as per letter dated the 15th March 2002 forwarded the application of the workmen to consider for absorption in OHPC enclosing their details to the Senior General Manager as per its letter dated the 10th May 2002 and also forwarded to the Energy Department, Government of Odisha requesting to regularize the services of the members of the workmen Union and to absorb them in the regular establishment of OHPC. They further averred that in the 12th review meeting of Odisha Hydro Power Corporation Ltd. (OHPC) held at Bhubaneswar on the 23rd May 2002, where the issue of regularization of the workmen in the TNE Grade was discussed and it was decided to sanction the post as proposed and all the workmen, who are working as contract labourers be absorbed under TNE Cadre considering their satisfactory performances and devotion to duties. The Senior General Manager (Electrical) Upper Kolab Hydro Electric Project in its letter dated the 27th December 2004 highlighting the law and order situation due to the threat of Naxals, regarding regularization of services of the workmen, requested the authorities to take immediate action on the issue to sort out the problem. In spite of the above, when the services of the workmen were not regularized, and they were allowed to continue under namesake contractors, they made representations to the appropriate authorities to regularize their services and to give them the salary of the TNE Grade.

In spite of several efforts made by the present workmen, when their issue was not considered for regularization, the members of the workmen Union individually approached before

the Hon'ble High Court in W.P.(C) No. 11828/2009 and the Hon'ble Court was pleased to dispose the said writ petition as per order dated the 7th September 2009 with a direction to the management to take a decision on the letter, written by the Senior General Manager (Elect.) dated the 10th May 2002, within a period of three months. After the order passed by the Hon'ble Court, no action was taken by the management and on the other hand the Manager, Potteru Electrical Division, Kalimela as per its letter dated the 8th April 2010, wrote to the Senior General Manager (Electrical), Upper Kolab Hydro Electrical Project with copy to Director (Operation) Corporate Office, Bhubaneswar to sort out the problem lying in Potteru Small Hydro Electric Project. The Asst. General Manager (Elec.), Upper Kolab Hydro Electrical Project, Bariniput issued a letter on the 21st March 2012, intimating the present workmen, the decision of the Management of OHPC for outright sale of Potteru Small Hydro Electric Project including all assets and liabilities on "as is where is basis". After receipt of said letter, all the workmen individually filed application/representation on the 7th May 2012 to the Management to absorb them in Upper Kolab Hydro Electric Project or elsewhere under Odisha Hydro Power Corporation, condoning the age criteria. They further averred that the Potteru Khudra Jala Bidyut Shramik Sangha, which has been formed and which is a registered Trade Union, duly registered under Trade Unions Act, 1926, has also submitted representations on the 10th May 2012 to Orissa Hydro Power Corporation to consider the case of the present workmen and to absorb them in Upper Kolab Hydro Electric Project or elsewhere under Orissa Hydro Power Corporation. They contended that challenging the decision of the management for outright sale of Potteru Small Hydro Electric Project, the present workmen filed W.P. (C) No. 9841 of 2012 in the Hon'ble High Court of Orissa, which is pending for disposal after maintaining status *quo ante*.

The workmen further averred that around 100 posts are vacant and/or going to be vacant under OHPC and its various units due to retirement of the employees in the year 2012 itself. They averred that on 18/19th May 2012, the management has issued advertisement for 35 posts of Senior Clerk (22 Nos.), Steno-cum-Computer Operator (10 Nos.) and Ladies Assistant (3 Nos.) and presently many posts are lying vacant due to retirement of the employees. But the management, instead of regularizing the services of the workmen with all consequential service benefits, are compelling them to continue with meager amount under the namesake contractors which is wholly illegal, arbitrary and colorable exercise of power. They stated that when the management did not consider the case of the workmen for regularization of their services, they filed representations dated the 24th January 2017 to the management for regularization of their services, including therewith their details like date of birth, date of joining, qualification and nature of work etc.

Finding no way out, the present workmen preferred W.P.(C) No. 4799/2017 with a prayer to abolish contract labour system in the establishment of management and for regularization of their services. The said writ application was disposed of on the 5th May 2017 with a direction to the OHPC to take a decision on the representation filed by the workmen on the 24th January 2017 as expeditiously as possible. The management on the 17th July 2017 rejected the representation of the present workmen on two grounds, namely that the previous Writ Petition vide W.P.(C) No. 9841 of 2012 is pending adjudication for regularization of the members of the Petitioner and as there is no relation of employer-employee exist, their case has no merit for consideration. The applicant-workmen challenging the said order dated the 17th July 2017, have preferred W.P.(C) No. 3402 of 2019 before the Hon'ble High Court of Orissa, who vide order dated the 28th March 2019 directed the workmen to approach the appropriate forum challenging the said order of rejection of regularization.

When during the pendency of both the writ applications, i.e. W.P. (C) No. 9841 of 2012 & W.P.(C) No. 21155 of 2012, the management with an ill intention and to outreach the interim orders passed by the Hon'ble High Court, had published advertisement No. 02/2019 on the 2nd March 2019 for the post of various Trainees, i.e. Electric Trainee [Operator (E1), Electrician & Lineman], Mechanical Trainee [Operator (Mechanical)], Fitter, Welder Trainee, Crane Operator Trainee, Wireman Trainee & Store Keeper Trainee, with Corrigendum "that any appointment made pursuant to the said advertisement No. 02/2019 dated the 2nd March 2019 shall be subject to the result of pending writ petition filed in W.P. (C) No. 21155 of 2012 before the Hon'ble High Court of Orissa." In the aforesaid facts and circumstances of the case, the workmen though are serving in their respective posts since more than 19-27 years, but their age was not relaxed for recruitment against such posts. Further it was clarified in the advertisement that any worker working under any manpower service providers/outsourcing agencies, were considered only for 15 years of service and their age was also relaxed but not the present workmen. Such outcast by OHPC to the workmen is illegal and discriminatory. The workmen will have no place left to serve, if such advertisements are not quashed. Then they had filed two writ petitions challenging both the advertisements vide W.P. (C) No. 7372/2019 and W.P. (C) No. 7482/2019 which are pending for adjudication before the Hon'ble Court.

The workmen further averred that they are working continuously for more than 20 years in the establishment of the management, have accrued a right in their favour to be regularized in service, particularly when posts are vacant under the management but advertising for fresh appointment by the management is only trying to change the conditions of their service. Further, as the job performed by the workmen are perennial in nature and they are continuing for more than 20 years under different contractors, they averred that the said system be abolished and the workmen be absorbed under the management. In the meantime, during the pendency of their challenge to the said advertisements, the workmen approached the Labour Authorities, i.e. District Labour Officer, Malkangiri seeking their regularization as per the direction of the Hon'ble Court. The DLO, Malkangiri on the 3rd May 2019 issued notice to the Senior General Manager (Electrical), Upper Kolab Hydro Electrical Project for conciliation between the parties. In spite of repeated letters dated the 3rd May 2019, 3rd July 2019, 5th September 2019, 1st October 2020, 15th January 2021 and lastly on the 8th February 2021 to appear before the DLO for conciliation process, did not come to the table for dialogue and settlement of issues. After several reminders, on the 31st March 2021, the management had submitted its stand stating the same plea as taken in its writ application filed before the Hon'ble Court that as the matter is subjudice before the Hon'ble High Court, it cannot take a decision regarding the regularization of the workmen and hence the grievances file by them have no merit. Thereby leading such conciliation proceedings to a failure between both the parties and the report was submitted to the Appropriate Government for further action, who subsequently referred the matter before this Court for further adjudication of the matter.

After filing of the show cause by the management, the workmen also filed their rejoinder and subsequent rejoinder, denying the pleadings of management. In their rejoinder, they averred that such advertisement was challenged by the 2nd party workmen on the ground that the consequential selection process are in violation of the provisions of the Industrial Disputes Act, 1947 and Service Manual, as they are continuing in various such posts since more than 25 years and new recruitment is illegal. They averred that the claim of the 1st party management that there is non- requirement of additional posts is false and concocted.

They further submitted that some of the workmen of second party workmen were employed directly by the Corporation through NMR/DLR, which is also borne from the records and also from the correspondences in regard to the proposal of staffing pattern required for regularization of the second party workmen with the 1st party management, which indicates that the second party workmen are necessary for the functioning of the first party management. Further, they approached the Hon'ble High Court in W.P. (C) No. 8984 of 2019 and said writ petition was disposed of by the Hon'ble High Court on the 16th May 2019, wherein it was held that the grievances of the second party workmen is pending before the management and it was further directed that the Labour Authorities will complete the conciliation proceedings within a stipulated time and take statutory steps. Therefore, the present proceeding before this Court is being rightly invoked under the Industrial Dispute Act, 1947 for claiming regularization of their services. They submitted that the applicability of CLARA, 1970 as pleaded by the 1st party management in the present case is absolutely not relevant in view of the direction of the Hon'ble Court. They further averred that they are being employed by the management, it used to issue directions with reference to disciplinary action and work. The attendance used to be marked by the employees of OHPC. The contractors are mere commission agents and contract itself was sham and bogus. The works performed by the present workmen are of perennial and permanent in nature. Therefore, they are, in fact and in law, the employees of OHPC, the management. They contended that though every year a tender is floated by the management for providing workmen to the Corporation, but they continued to work with the management, irrespective of whosoever is the contractor and also no appointment and termination is observed by any of the contractor every year. Therefore, the contract is only a paperwork and sham document. They further averred that the attendance and disciplinary action against the present workmen were initiated/recommended by the 1st party management. The day-to-day work of the workmen is regulated, controlled and supervised by the management. Therefore, there is no doubt that the contract is sham and bogus one and there is jural relation of employer- employee between the parties. With the above averments, the present workmen prayed to adjudicate the reference in their favour and to direct the 1st party management to regularize/absorb them into the present project (Potteru Small Hydro Electric Project) from the date of their initial appointment with all consequential service benefits or to regularize/absorb them in other project of the management from the date of their initial appointment with all consequential service benefits, in the interest of justice.

## 2. Brief facts of the case of the 1st party management is as follows:–

On receipt of notice, the management has entered its appearance and filed its show cause. In its show cause, it denied the averments made in the claim statement of the 2nd party workmen. It averred that the Odisha Hydro Power Corporation Ltd. (O.H.P.C.) is a Public Limited Company of Govt. of Odisha, registered under the Indian Companies Act, 1956. The Upper Kolab Hydro Electric Project (UKHE Project) and Potteru Small Hydro Electric Project (Potteru Project) including all other Hydro Power Projects functioning under Govt. of Odisha and erstwhile Odisha State Electricity Board in short OSEB along with its personnel, assets, liabilities, properties, etc. are transferred to OHPC with effect from the 1st April 1996 as per provisions of Odisha Electricity Reform Act, 1995. In order to undertake temporary works in the Potteru Project, the first party management had made agreement with successful registered Labour Contractors from time to time to provide labourers to engage them in different works, as and when necessary. The recent Work Order No. 4230 (WE), dated the 21st October 2021, the second party workmen were engaged by the Labour Contractors as per requirement of the work and wages were paid to them by the labour contractors. The second party workmen were never engaged directly by the first party management and as such there is no master and servant relationship between the first party management and the second party workmen.

It further contended that in the year 2009, the second party workmen and filed W.P.(C) No. 11828/2009 before the Hon'ble High Court of Orissa claiming regularization of their service. The Hon'ble High Court of Orissa vide order dated the 7th September 2009 had disposed the writ petition with the direction that the Chairman-*cum*-M.D., OHPC to take a decision on letter written by Senior General Manager (Elec.) dated the 10th May 2002 within a period of three months from the date of communication of the order. In compliance to the, aforesaid order of the Hon'ble High Court, the 1st party management submits that the matter was examined by the Corporate Office of O.H.P.C, Bhubaneswar. After taking into consideration of various aspects of the matter, the Corporate Office vide letter dated the 13th November 2004 intimated the workmen that the Board of Management of O.H.P.C has decided to take steps for outright sale of the Potteru Small Hydro Project including all of its assets and liabilities after obtaining clearance from the State Govt. So there is no scope for regularization of the second party workman. It is further submitted that, there is no requirement of cadre structure in TNE category to be sanctioned for Potteru Small Hydro Electric Project and till this date the cleaning, watch and ward, sanitation works for the said project was being carried out by outsourcing agencies only.

It further contended that at the initial stage during construction of the project, the Sr. General Manager of UKHE Project, Bariniput, the first party management has made certain correspondences in regard to the proposal of staffing pattern required for the said ongoing project which was an internal correspondence. Mere sending such proposal at the initial stage does not confer the right on the second party for their absorption into regular appointment in the project, since it has been decided to sale the said project after obtaining clearance from the State Government. The matter is already taken up with the State Government for obtaining approval for outright sale of the Potteru Small Hydro Electric Project, which is under process. So far as the points of discussions in the review meeting as referred by the workmen, it is submitted that this was only the proposal submitted by the Sr. General Manager(E1.), UKHEP, Bariniput to the Director (Operation) for discussion. The proposal was only recorded and no decision has been taken in the matter, as at that point of time such proposal required detailed analysis with regard to generation of electricity and its viability and other cost factors, etc. Considering all relevant factors, it has been decided that the operation and maintenance job of the project shall be carried out by the outsourcing agency. It further contended that the recommendations made by the then Manager, Potteru Small Hydro Electric Project at a time when the project was viable and now that it is no more viable and hence said recommendations have lost its force and such recommendations do not confer any right on the 2nd party workmen, who have been engaged through contractors, for their absorption into direct appointment in OHPC. As there is no sanctioned posts or any requirement for recruiting any regular employee for the said project, question of absorption of the 2nd party workmen does not arise. It further averred that in the letter dated, the 27th December 2004 of Sr. General Manager (E1.), UKHE Project addressed to the Director (HRD), OHPC, it is clearly reflected that the Naxals have threatened the authorities of the project, demanding regularization of the services of the 2nd party workmen as a result of which the other regular employees are feeling unsafe. In this connection, it is to mention here that under threats of the Naxalites, the 2nd party workmen, engaged through contractors, cannot be regularized by the Corporation. Process of law cannot be sacrificed under the threat of Naxalites. It is submitted that the operational & maintenance job of the Potteru Small Hydro Electric Project has been carried out by outsourcing agencies/contractors. It has been decided by the Corporation for outright sale of the project "as is where is basis" subject to the approval of the Government. The claim of the 2nd party for their absorption in regular post and appointment under the Corporation is therefore not admissible and entertainable.

It further contended that the second party workmen being aggrieved, after receiving the Letter No. 1167, dated the 23rd March 2012, that the OHPC has decided to outright sale the project, has challenged the action of OHPC by filing W.P.(C) No. 9841/2012 before the Hon'ble Orissa High Court and the matter is sub *judice* before the Hon'ble High Court till now. So far, the advertisement published on the 19th May 2012 inviting application from the candidates fulfilling the required eligibility criteria for selection to the post is concerned, the same has been cancelled in the meantime. It further submitted that there is no bar on the part of OHPC for filling the vacant post by due process of law from the candidates eligible for the posts. For filling of the vacancies, OHPC made two numbers of advertisements in the year 2019, which are also challenged by the second party vide W.P. (C) No. 7372/2019 and W.P. (C) No. 7482/2019. The said writ applications are now pending before the Hon'ble High Court of Orissa for disposal. In the said advertisement, conditions with regard to relaxation have been given for those second party to submit their application, if they are otherwise eligible for those posts.

The second party workmen have filed W.P. (C) No. 3402/2019 before the Hon'ble High Court praying to issue orders for regularization of their service. The Hon'ble High Court as per order dated the 28th March 2019 held that since the petitioners are wanted for regularization of their service, they have to approach to the Appropriate Government under Contract Labour (Regulation and Abolition) Act, 1970. Hence, it averred that in pursuance to the said order, the second party workmen ought to have approach before the appropriate government under said Act, 1970 and this court has no jurisdiction to entertain and adjudicate the present dispute. For the above reasons, the present references are *non est* in the eye of law and as such this court has no jurisdiction to entertain the dispute.

It is further contended that the second party workman after having filed several cases, approached the District Labour Officer, Malkangiri regarding non-regularization of their service in the Potteru Project. During conciliation proceeding, the first party management has submitted its written views by disputing the regularization of Second Party Workman on the ground that there was no employer-employee relationship. But the DLO, Malkangiri, has submitted conciliation failure report to the Govt. Thereafter the Labour and Employment Departments of Govt. of Odisha has referred the present dispute to this Court for adjudication without considering the stand of the management.

The first party management further submitted that the second party workmen have been engaged by different Labour Contractors who have been awarded contract work of Potteru Small Hydro Electric Project. The second party workmen were never engaged directly by the first party management as a temporary labour like NMR, DLR etc. at any point of time. Since the second party workmen were never engaged directly by the first party management at any point of time, the question of regularization of their service doesn't arise at all.

It further submitted that after construction of the project, the machine was spun on the 12th January 2008. After several attempts, the machine could not run due to various reasons like inadequate water availability and operational difficulty, due to higher energy cost and also for naxal activities, the management of OHPC, felt that it is not possible to run the said power project further and as such finally decided for outright sale of the Project "as is where is basis" subject to the approval of State Government. In view of the above decision for outright sale of the project, it is not required to create a regular post and recruit the employees for the particular site. The different labour contractors have taken up the contract works by engaging their own labourers on job contract basis. Hence the claim of second party workman for regularization is not justified. It submitted that

under law, in case of a contract employment, it comes to an end, at the end of the contract. If the engagement is made on daily wage basis or casual basis, it comes to end when the engagement is discontinued. Similarly, a temporary employee who worked beyond the period of employment for how long period he had worked, they cannot be absorbed in regular post, since these employees have got no right to the post. The first party management submitted that at no point of time the second party workman were given assurance for absorption in regular post. Further employment in due process of law is only recognized as a right to the post of any employee workman. But on the ground of long length of engagement on casual basis or daily wage basis, it would not be appropriate to jettison the constitutional scheme of appointment, and to take a view that a person who has temporarily worked for a considerable length of time, should be directed to continue the job permanently, it will be creating another mode of public employment which is not permissible under law. Under law, the vacant posts of any establishment is to be filled up in the process, prescribed under rules and regulations. The posts cannot be filled up by regularization of casual workers or daily wages and temporary employees. It further submitted that the second party workmen have no fundamental right and also they have no legal and enforceable right to be absorbed in regular service, since they are employed temporarily on contractual basis through labour contractors. With the above contentions, the management has prayed that the case of the second party workmen is devoid of any merit and needs no consideration and the reference is liable to be rejected in the ends of justice.

### 3. Schedule of the Reference :—

- (a) Whether the denial by the management of the Senior General Manager (Elect.), Upper Kolab Hydro Electrical Project, OHPC, Bariniput, Dist. Koraput for regularization of service of Shri P.K. Dwibedy and 31 other contract workmen is legal and/or justifiable?
- (b) Whether claiming of regularization of service of Shri P. K. Dwibedy and 31 other contract workmen of Potteru Electric Project, Gompakonda in the establishment of the Senior General Manager (Elect.), Upper Kolab Hydro Electrical Project, OHPC, Bariniput, Dist. Koraput in the regular establishment is legal and/or justified ? If not, what relief they are entitled to ?

### Additional Issues—

- (c) Whether the contract between 1st party management and its different labour contractors for engagement of the present workmen as contract labourers are sham/bogus?
- (d) Whether there exists any direct relationship of employer-employee between the 1st party management and the present workmen owing to the nature of jobs, the workmen are performing since long period of time ?
- (e) Whether the case of the present workmen is falling under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 (in short, CLARA) and is not maintainable before this Court under the I.D. Act, 1947 ?

4. In order to establish their case, the 2nd party workmen have examined as many as three witnesses on their behalf and also relied on several documentary evidences. On the otherhand, the management has examined three witness on its behalf. Apart from the oral evidences, it also relied on several documentary evidences.

5. Learned Counsel for the workmen Shri Panigrahi submitted that the present workmen are directly employed by the management in the year 1993 in the NMR establishment, but subsequently they are put under the namesake contractors, only for the payment of wages, by violating the provisions of S. 9A of I.D. Act, 1947. By putting under the namesake contractors, for long continuous period of



time, without regularising their service, the management has resorted to unfair labour practices as enumerated in the I.D. Act, 1947. He further submitted that the present workmen are working in the establishment of the management at Potteru Project, Gompakonda since 1993 as evident from Ext. 2. He further submitted that the present workmen were working under the direct supervision and control of the officers of management as regular employees in the perennial nature of jobs. He further submitted that the present workmen were working in the operation and maintenance of Potteru Small Hydro Electric Project, Gompagonda of 1st party management, which is an integral part of the other projects of 1st party management since last 20 to 30 years continuously, although there were change of different namesake contractors. He further submitted that even some of them were engaged by the 1st party in the official work at its Bariniput Office. He further submitted that identity cards were issued by the management in favour of the workmen, showing that they are the employees of the management and not of the contractors. Without the contribution of the present workmen, the operation of the establishment is not possible and hence an essential nature of job, the workmen were performing. He further submitted that there were disciplinary control and the security of the workmen bestowed on the officers of the management, but not in the hands of the so called contractors, since they were working in the sensitive security region of the establishment. He further submitted that the wages of the workmen were fixed by the management and paid accordingly, which shows its financial control. He further submitted that the management has took the attendance of workmen and managing the attendance registers. But the management has failed to adduce any such registers, which is under its control during hearing of this case. He further submitted that although the namesake contractors were changed, but the workmen were the same through the years together. He further submitted that taking the importance of the works performed by the present workmen, the management has taken steps and their names were recommended for their absorption into regular service and to give TNE Grade salary, but the facts best known to the management, till now they are not given their legitimate claim. Being dissatisfied with the decision of the management for their non-regularization, the present workmen fought several legal battles before the Hon'ble High Court of Orissa and finally approached before this court after the direction of Hon'ble Court and the matter being referred by the Appropriate Govt. There is no valid contract agreements between the management and the so called contractors and not a single piece of documents has filed by the management to that effect before this court for perusal. Thus he submitted that the contract between the management and the labour contractors, if any, for engagement of contract labourers are only sham documents, in order stifle the legitimate right of the present workmen. He further submitted that there are sufficient vacancies in the establishment to absorb the present workmen, who are having a suitable and requisite experience of more than 20 years. He further submitted that in similar project of management in collaboration with APPGCL (now APGENCO) at Machhkund, five similarly placed workmen were regularised as per the direction of Hon'ble High Court of Orissa in OJC Case No. 7389 of 2000. Even the management has also regularized the service of Dhanu Harijan, a temporary employee in the management. But the present workmen are deprived of their legitimate rights in spite of long unblemished service rendered to the management. So he submitted to pass necessary orders for regularization of the present workmen. In support of his averments, he placed his reliance in the following decisions.

Mahanadi Coalfields Ltd. Vrs. Brajarajnar Coal Mines Workers' Union 2024 INSC 199, Hussainbhai Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode & Ors. AIR 1978 (SC) 1410, General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon Vrs. Bharat Lal Reported (2011) 1 SCC 635, Maharashtra State Road Transport Corporation & Anr. Vrs. Casteribe Rajya Parivahan Karmachari Sangathan (2009) 8 SCC 556, Workmen of Nilgiri Coop. Mktg. Society Ltd. Vrs. State of T.N. (2004) 3 SCC 514, National Airport Authority Vrs. Bangalore Airport Service Coop. Society (1978) 4 SCC 257 and Bhilwara Dughd Sahakari S. Ltd. Vrs. Vinod Kumar Sharma (dead) by LR's & Ors. AIR (2011) SC 3546.

6. Learned Counsel for the management Shri Dash has submitted that since, the workmen are employed under the labour contractors, there is no direct relationship of employer and employee or master and servant relationship exists between the management and the present workmen. He further submitted that the management, being a Public Limited Company of Govt. of Odisha, is registered under the Indian Companies Act, 1956 and is regulated by its bye-Laws and Rules. The present Potteru Small Hydro Electric Project and all other hydro power projects are functioning under the Govt. of Odisha. When the present project was started, the management has decided to engage contract labour system to do certain temporary work for the functioning of its establishment. Accordingly, contractors were appointed by issuing of work orders for engagement of labourers for different work as and when necessary. The said contractors were engaged the present workmen for different works in the establishment of the management. There is no direct payment of wages to the present workmen. The contractors were paid the wages to its labourers and thereafter receive the same from the management. The management never had any control over the present workmen. This fact has well admitted by the witnesses of the workmen during hearing. Hence he submitted that the law is well settled that fact admitted need not be proved as enumerated under Section 58 of Indian Evidence Act, 1872. Since they are contract labourers, they are not workmen as defined under Section 2(s) of the I.D. Act, 1947. He further submitted that the Appropriate Govt. has exclusive authority to abolish the contract labour system in an establishment under Section 10 of CLARA, 1970 and till date the same has not been done by the Government of Odisha. So the question of the regularisation of the present workmen does not arise. No *iota* of evidence has adduced by the workmen showing that they have approached to the Appropriate Govt. for abolition of contract labour system in the establishment of the management. He submitted that if any violation of the provisions of CLARA, 1970, by the management or the contractors U/s.7 or U/s.12 respectively, the inevitable consequence is the penal provisions as provided U/s. 23 and U/s. 35 of the said Act, 1970 but no automatic regularisation of the contract labourers. So far the contention raised by the workmen that the contract is a sham and bogus and the contractors are namesake, he submitted that throughout the filing of the statement of claim the plea of sham and bogus of the contract has not been raised and only at the far end of the hearing of this case, while filing rejoinder raising such issue is not maintainable. He further submitted that law is well settled on this point that the plea of sham and bogus of a contract must be specifically pleaded and proved adducing cogent evidence. But here in this case, the workmen has admitted that they are the contract labourers both in their pleadings and during evidence. So he submitted that the plea of sham and bogus of a contract is meaningless in view of admission on the part of the workmen. Even while raising the dispute before the Labour Machinery, the plea that the contract is sham, bogus, smoke screen, ruse and fraudulent transaction and they be declared as the regular employee, has not been raised. He further submitted that the decision of the Govt. is final when a dispute arise as to the perennial nature of any work. The workmen cannot decide that the nature of work, they were performing was perennial. No document or evidence is filed that the Govt. has declared the nature of work, the workmen were performing is perennial. Merely the present workmen worked in the Establishment of the management, *ipso facto*, cannot say that they are the employees of the management. They are temporary labourers, employed through their respective contractors and hence, their claim for regularization does not arise. He further submitted that there was no question of resorting of unfair labour practice as claimed. The wages were paid to the labourers as per the norms of the Government and there is no deviation at all. He submitted that the management as well as the contractors are registered under the provisions of the CLARA, 1970 and the contractor are having valid license to engage labourers in the establishment of the management and hence this case is not maintainable under the provisions of the I.D. Act, 1947 as referred by the Govt. and the reference is bad in law. He submitted that the suggestion of names of the present workmen by the management to its official head for approval, is the internal matters of the management and this does not ground to claim regularisation of their services. He further submitted that the present

workmen were not directly appointed by the management against any regular vacancy and were never issued any appointment letter for their engagement in the management. Their status was the contract labourers under their respective contractors. He further submitted that there was no violation of any provisions of CLARA, 1970. Thus he submitted that the claim of the workmen are not maintainable under the reference. He further submitted that the workmen while filed their first statement of claim, they have pleaded that they are working under different contractors and hence contract labourers. But when they filed their amended claim and rejoinder, they pleaded that they are directly appointed by the management. So he submitted that taking such contradictory plea, shaken the veracity of the pleadings of the workmen and on such contradiction, reliance cannot be placed without any evidence. In support of his submission, he placed his reliance on the following decisions. Nagindas Ram Das *Vrs.* Dalpatram Ichharam AIR 1974 SC 471, Gautam Swarup *Vrs.* Leela Jetly 2008 SC, S.R. Srinivasa & Ors. *Vrs.* S. Padmavathamma 2010 (II) OLR (SC) 286, Dena Nath & Ors. *Vs.* National Fertilizes Ltd. & Ors. (1992) L.L.J-1289, Steel Authority of India Ltd. & Ors. *Vrs.* National Union Water Front Workers & Ors. AIR 2001 SC 1357, BHEL Worker's Association Hardwar & Ors. *Vrs.* Union of India & Ors. AIR 1985 SC 409, Gujrat Electricity Board, Thermal Power Station, Ukai, Gujar *Vrs.* Hind Mazdoor Sabha & Ors. AIR 1995 SC 1893, APSRTC & Ors. *Vrs.* G. Srinivas Reddy & Ors. SC 2006, Kirloskar Brothers Ltd. *Vrs.* Ramcharan & Ors. SC 2022, their workmen represented by Surendra Rai, Area Secretary, Rastriya Colliery Mazdoor Sangh *Vrs.* Employer in relation to the management of Sudamdih Colliery of M/s. Bharat Coking Coal Ltd. 2020 Jharkhand HC, Mukand Ltd. *Vrs.* Mukund Staff and Officers Association 2004 SC, Steel Authority of India Ltd. *Vrs.* Panchu Behera & Ors. 2009 (I) OLR 532, Hari Shankar Sharma & Ors. *Vrs.* M/s Artificial Limbs Manufacturing Corpn. & Ors. 2001 SC, Bachhaj Nahar *Vrs.* Nilima Mandal & Anr. 2008 SC, Kendriya Vidyalaya Sangathan and Ors. *Vrs.* S.C. Sharma AIR 2005 SC 768, R. M. Yellati *Vrs.* The Assistant Executive Engineer 2005 SC, Surendranagar District Panchayat & Anr. *Vrs.* Jethabhat Pitambarbhai 2005 SC, Smriti Debbarma (dead) Through LR *Vrs.* Prabha Ranjan Debbarma 2023 SC, Gulam Mustafa & Ors. *Vrs.* The State of Maharashtra & Ors 1977 AIR 448, Vegolis Pvt. Ltd. *Vrs.* The Workmen AIR 1972 SC 1942, The management of Heera Cement *Vrs.* The UOI & Anr. AIR 1986 (II) OLR 416, The Heera Cement Worker's Union *Vrs.* State of Orissa 2001 (I) OLR 447, Madhusudan Behera & Ors. *Vrs.* District Judge, Sundargarh & Ors. 2009 (Supp.) OLR 939 Fida Hussain & Ors. *Vrs.* Moradabad Development Authority & Anr. 2011 SC, Vishnu Dutt Sharma *Vrs.* Manju Sharma 2009 SC, Nedungadi Bank Ltd. *Vrs.* K.P. Madhavankutty & Anr. 2000 SC, Markio Tado *Vrs.* Takam Sorang 2013 SC, Secretary, State of Karnataka & Ors. *Vrs.* Uma Devi & Ors. AIR 2006 SC 1806, Dwarikesh Sugar Industries Ltd. *Vrs.* Prem Heavy Engineering Work 1997 SC, Indiane Bottling Plant Sramika Congress *Vrs.* Indian Oil Corporation & Ors. 1995 (II) OLR 442, Dhanjaya Sahoo & Ors. MD, Orissa Construction Corporation Ltd. & Anr. 1997 (I) OLR 175, Steel Authority of India Ltd. *Vrs.* Union of India & Ors. AIR 2006 SC 3229, workmen, through Colliery Mazdoor Sabha *Vrs.* Central Govt. Industrial Tribunal & Ors. 2004 (4) LLN 252 (Cal. HC) and Paulus Oram *Vrs.* State of Orissa MANU/OR/0282/1999.

## FINDINGS

7. The present reference is the outcome of the industrial disputes raised by the present workmen of Potteru Kshudra Jala Bidyut Sangha, through its Secretary, demanding their regularisation with the establishment of the management. They averred that the present 32 numbers of workmen were engaged by the 1st party management directly for working in the Potteru Small Hydro Power Project at Gompakonda and also they were working in the establishment of management at Bariniput in different posts throughout the year. Therefore, they are the workers, working in a perennial nature of work and hence entitled to be absorbed into the regular roll of the management. But the management has shown them as contract labourers by paying their wages. It further contended that the introduction of contract labour system is against the Rules of the

establishment and the contractors were namesake and the contract if any, is bogus and sham, only to deprive the legitimate claim of the present workmen. The management averred that they were working in the project site not directly, but through their contractors and hence they are not the employees of the management and they are the labourers of their respective contractors. It was further averred that the present persons (workmen) so worked not throughout the year but as and when required. It further contended that they are receiving their wages from their contractors and there is no relationship of servant-master or employees-employer existed between them.

8. In this backdrop of averments, first I have to advert to discuss issue No. (d), which is crucial for determining the status of the present workmen as to whether they are the labourers of the contractors, employed by the management or they are the employees of the management as principal employer, directly appointed by it ? Fact reveals that the present workmen are the labourers engaged by different labour contractors appointed by the management for the purpose of certain works to be carried out at project site of Potteru Small Hydro Power Project, Gompakonda. However, the workmen contended that they were directly appointed by the management as NMR/DLR and worked for more than 20 to 27 years. Learned counsel for the workmen relying on Ext.2 submitted that the present workmen are working as NMR/DLR, as reveals from the letter of correspondence written by the Executive Engineer, Potteru Electrical Division, Kalimela to the Superintending Engineer, (Elect.), Upper Kolab Hydro Electric Circle, Bariniput on its reference Letter No. 1922-27 dated the 16th June 1997 for their regularization. In the said corresponding letter a list of workers is attached for the consideration of their absorption in regular establishment. The names of the present workmen are also found mentioned there in item No. 3. It further found that item No. 3 is related to the contract labourers. However, in the list of names in the last column, it is mentioned that they are working as NMR, against each name. So basing on the said fact, learned counsel submitted that the present workmen are working as NMR/DLR. Except this fact no other supportive document is filed to buttress the said claim. On perusal of Ext. 2, it appears to this court that learned counsel has completely ignored the content and its meaning of item No. 3 of Ext. 2. The item No. 3 of Ext. 2 clearly meant for contract labourers. It further proves that the present workmen are the contract labourers. Merely in remarks column, it is mentioned that they are working as NMR, without any supportive document, cannot come to the conclusion that they are the NMR employees of the management. Moreover, during evidence the workman examined as W. W. 1 categorically admitted in Para. 101 of his cross-examination that no appointment letter was issued to them by the management. He further admitted that they were working under different contractors since more than 20 years and lastly under the contractor M/s Daitari Sia. He further admitted that the contractors were paying their wages. But on his recall he deposed contradictory statements and stated that he was appointed by one P. K. Das, Manager, OHPC. He further stated that in the similar footings other workmen were also appointed by other officers of OHPC as per their needs. Law is well settled that a statement given by a witness during evidence, either in examination-in-chief or in cross-examination, cannot be withdrawn on recall in order to suit their stand taken thereafter. If such withdrawn is made during recall of a witness, reliance cannot be placed on such contradictory and retracted statement. W.W.1 during his cross-examination has clearly deposed that no appointment letter was issued by the management and they were working under the different labour contractors since long and lastly under Daitari Sia and received their wages through the labour contractors. But on his recall on the 8th November 2023 he stated that he was appointed by one P. K. Das, Manager, OHPC. This development was first appeared when the present workmen have filed their subsequent rejoinder after filing of amended show cause by the management. But in support of said plea, no document has filed by the workmen although W.W.1 has stated during his cross-examination in Para.126. Moreover, on perusal of the documents filed by the workmen marked Exts. 2, 9, 10, 17, 18 and many other documents relied on by both the parties, it is found that the present workmen are the contract labourers. The workmen also in their representations

vide Exts. 9 and 26 admitted that they are the contract labourers by putting their individual signatures. Even in their writ petitions filed before the Hon'ble Court in several writ cases, they also averred that they are contract labourers. The workmen also relied on the document marked as Ext. 64. The said document is the list of labour contractors engaged by the management since 1993 in PSHEP. A list also attached with the said Ext. 64, where it is mentioned that the present workmen are working under the said contractors. It is further found from the evidence of the workmen witness No. 2 & 3 that they were working under different labour contractors. W. W. No. 2 in Para. 37 of his statement during cross-examination has stated that they all are employed under the labour contractors. Similarly, W.W. No. 3 in Para. 37 of his statement during cross-examination has also stated that all 32 workmen are employed under the labour contractors. He further stated that he was working since 1998. On perusal of Ext. 64, and other relevant documents relied on by both the parties, and moreover on the admission by the workmen during evidence, there remains no doubt that the present workmen are the contract labourers working under different labour contractors engaged by the principal employer, the management. Since the present workmen are the contract labourers, working under different labour contractors, it can safely be concluded that there is no employer-employee relation exists between the management and present workmen. Merely the workmen are working since a petty long period of time, does not *ipso facto*, change their character as. direct employee of the management. Law is well settled in the case of Kirloskar Brothers Ltd. *Vrs. Ramcharn (supra)*, where the Hon'ble Apex Court held that;

“4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 - contractor, who was a contractor engaged by the appellant in terms of the contract dated the 22nd April 1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 - contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.

4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non-payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer - appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act, 1970 unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor.”

9. The next question, which also important for the present dispute in question, i.e. the nature of the contract between the management and different labour contractors as framed in Issue No. (c). Learned counsel for the workmen has submitted that the contract between the management and different labour contractors are sham, bogus, camouflage and smoke screen, which is meant for deprivation of the legitimate claims of the present workmen. Learned counsel for the management has submitted that the present workmen have never taken the plea that the contracts between the management and different labour contractors are sham or camouflage or smoke screen, either before the labour machinery, when they raised the present dispute, or before this court while filed their statement of claim. He submitted that while filed their subsequent rejoinder, after filling of the amended show cause by the management and after examination of one witness as W.W.1 on their behalf, the workmen, to the surprise of the management took the plea of sham or bogus of the contract, only to patch up the, lacunae. He further submitted that no supportive averments are made, as to how the contracts are sham or bogus. Thus he submitted that evidence, in absence of the pleadings, that to the same was taken while filing the rejoinder, has no meaning at all. He further submitted that in view of admission made by the workmen, that they are contract labourers and worked under the different labour contractors, disputing the contract itself as sham or bogus, is appears to be self- contradictory. Merely saying or taken a vague plea that the contracts are sham or bogus, does not *ipso facto* make the relationship between the management and labour contractors, changed. In support of his submission, he placed his reliance on the decision of Bachhaj Nahar (*supra*), where the Hon'ble Apex Court has held in Para. 10 as follows;

“10. The object of issues is to identify from the pleadings the questions or points required to be decided by the, courts so as to enable parties to let in evidence thereon. When the facts necessary to make out a particular claim, or to seek a particular relief, are not found in the 7 plaint, the court cannot focus the attention of the parties, or its own attention on that claim or relief, by framing an appropriate issue. As a result the defendant does not get an opportunity to place the facts and contentions necessary to repudiate or challenge such a claim or relief. Therefore, the court cannot, on finding that the plaintiff has not made out the case put forth by him, grant some other relief. The question before a Court is not whether there is some material on the basis of which some relief can be granted. The question is whether any relief can be granted, when the defendant had no opportunity to show that the relief proposed by the Court could not be granted. When there is no prayer for a particular relief and no pleadings to support such a relief, and when defendant has no opportunity to resist or oppose such a relief, if the Court considers and grants such a relief, it will lead to miscarriage of justice. Thus it is said that no amount of evidence, on a plea that is not put forward in the pleadings, can be looked into to grant any relief.”

Learned counsel on the other hand, has submitted that the plea of sham or bogus of the contract between the management and contractors, although has not taken while filing the claim statement but while filed their subsequent rejoinder, the workmen have in clear terms pleaded this fact. He further submitted that in their claim statement, they clearly pleaded that they were put under the 'name sake contractors' which is wholly illegal, arbitrary and colorable exercise 'of power' in Para.13, which is otherwise challenging the position of labour contractors as smokescreen. So the contention of the management that there is no pleading regarding the question of sham or bogus of the contract, has no force at all. Further, Rule 10B (1) of Orissa Industrial Disputes Rules, 1959 prescribes the procedures for filing of the statement of claim by the workmen, who raises the industrial dispute. sub-rule 2 prescribes for filing of the written statement by the opposite party. Again sub-rule 4 prescribes for filing of rejoinder by the party raising the dispute to the averments of written statement. So on perusal of these Rules, it can be concluded that the rejoinder filed by the present workmen to the response of written statement of the management, forms part of the statement of claim. On perusal of subsequent rejoinder filled on the 9th March 2023, in Para. 8, it is clearly averred that the contract itself was sham and bogus. So the contention of the learned

counsel for the management that there is no pleading, whereby the workmen challenged the nature of contract is sham or bogus, is not acceptable. But in other aspects, like how the contracts are sham or bogus, whether there were proper execution of those contract as per law, whether the present workmen were engaged by the successive contractors on each time of fresh execution of contracts, whether they were paid the wages by the management during gap periods, i.e when the period of contract was came to end and the execution of new contract, what was the status of the present workmen when there was no contractor at all, the claim statement completely silent about it. Further while raising the dispute before the Labour Authorities, no such plea was taken regarding the nature of the contracts, as evident from Ext. 46. Even the Conciliation failure report submitted vide Ext. 65 is also silent about it, which are vital aspects for determination of the nature of contracts executed between the management and different labour contractors. So contention raised by the counsel for the management has some force in this aspects. As discussed in Para. 8 of this judgment that the workmen have admitted that they are the contract labourers. Even they admitted in Para. 10 of their subsequent rejoinder that there were publication of tenders on each year for engagement of labour contractors, which shows that the workmen have knowledge about the process of awarding tenders in favour of labour contractors. But they remained silent and acquiesced with the decision of the management.

Next come to the moot question relating to the fact that how far the workmen have successful to establish the fact or question of nature of contract as sham or bogus by adducing cogent and corroborative evidence. The plea of the workmen that they were put under the name sake contractors, who are only the paying agencies, by the management while working at Potteru Project. They further pleaded that they were performed the perennial nature of work for petty long period of time for more than 20 years. Even though they were working as contract labourers, but the real control and supervision were with the officers of the management as evident from several documentary evidences marked as Exts. 19, 22, issuance of experience certificates vide Ext. 18, 23 & 72, deployment of workmen in other works as evident from Exts. 42 & 73 and issuance of identity cards in favour of workmen by the management, vide Exts. 70 and 74 series. So far Exts 19 and 22 are concerned, the same is the arrangements for the deployment of staffs under the management and the same are prepared by the officers of the management. So the workmen are contended that the arrangement made by the officers of the management shows that although they were contract labourers engaged by contractors but were under direct control and supervision of the officers of the management. In this aspect they placed the reliance on the decision of the Hon'ble Apex Court in the case of General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon (*supra*), on which learned counsel for the workmen has also placed his reliance, where it held in Para. 9 that;

"9. On a careful consideration, we are of the view that the Industrial Court committed a serious error in arriving at those findings. In regard to the first test as to who pays the salary, it placed the onus wrongly upon the appellant. It is for the employee to aver and prove that he was paid salary directly by the principal employer and not the contractor. The first respondent did not discharge this onus. Even in regard to second test, the employee did not establish that he was working under the direct control and supervision of the principal employer. The Industrial Court misconstrued the meaning of the terms 'control and supervision' and held that as the officers of appellant were giving some instructions to the first respondent working as a guard, he was deemed to be working under the control and supervision of the appellant. The expression 'control and supervision' in the context of contract labour was explained by this Court in International Airport Authority of India v. International Air Cargo Workers Union 2009 (13) SCC 374 thus:

"If the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not

make the worker a direct employee of the principal employer, If the salary is paid by contractor, If the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.”

Therefore we are of the view that the Industrial Court ought to have held that first respondent was not a direct employee of the appellant, and rejected the application of the first respondent.”

They further contended that Ext. 42 shows that one of the present workmen was working as clerk in the Project High School, Bariniput, which is under the control of the management. On perusal of the said Ext. 42, it is found that the same was a photocopy and in manuscript form. The original has not been produced. No step was taken for its production. The person issued the same has not been examined in order to prove the same, Similar the situation in case of Ext.73,.which is the photocopy of vehicle log book. Hence the same are not reliable. So far the relevancy of experience certificates marked as Exts. 18, 23 and 72, are concerned, the same are issued to the person concerned for their better perspective in life at somewhere else and on the said basis, it cannot be said that the control and supervision of the workmen were under the management. Similarly, the identity cards marked in Ext. 70 and. Ext. 74 series, the same were issued, by the officers of the management under special circumstances as found from Ext. 15. It reveals that due to threat of naxalites, issuance of identity cards were felt imperative. This fact has also admitted by W.W.1 in Para. 136 in his evidence. So on the basis of issuance of identity cards, it cannot be said that they are the employees of the management. Further, W. W.1 has also admitted that in all the identity cards, the present workmen have shown as ‘contract labourers’.

Lets come back to the crux of the issue. Fact reveals that the management has floated tenders for appointment of labour contractors as evident from Ext.1. Similarly, the workmen have clearly admitted this fact in their rejoinder. The workmen have also filed the list of labour contractors, who were engaged by the management since the inception of the project which is marked as Ext. 64. It reveals the details of the names of respective labour contractors and the period of their engagement. Further the management has filed the tax invoices of different labour contractors, through which the management has paid the wages of the present workmen, marked Exts. K, L, Q, & R. It also filed the tender papers executed between the management and labour contractors marked as Ext. A & B. All these documents and the evidences, shows that the contracts between the management and the labour contractors are genuine. So the averments of the workmen that the contracts are sham and bogus cannot be accepted.

10. To answer the Issue No.(e), i.e whether the case of the present workmen is falling under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 (in short, CLARA) and is not maintainable before this Court under the I.D. Act, 1947 ? Learned counsel for the management has submitted that the case of the workmen is not maintainable before this court under the provisions of I.D. Act, 1947. He further submitted that the case is falling under the purview of the provisions of CLARA, 1970.

The Hon'ble Apex Court in the case of Steel Authority of India Ltd. V. National Water Front. (*supra*) has held that;

“An analysis of the cases, discussed above, shows that they fall in three classes; (i) where contract labour is engaged in or in connection with the work of an establishment and employment



of contract labour is prohibited either because the Industrial adjudicator/Court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, 1970, no automatic absorption of the contract labour working in the establishment was ordered; (ii) where the contract was found to be sham and nominal rather a camouflage in which case the contract labour working in the establishment of the principal employer was held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited; (iii) where in discharge of a statutory obligation of maintaining canteen in an establishment the principal employer availed the services of a contractor and the courts have held that the contract labour would indeed be the employees of the principal employer.”

Learned counsel for the workmen after relying on the decision of Baraiya Vallabhbbhai Odhavjibhai (*supra*) has submitted that the case of the workmen is maintainable under the provision of I.D. Act, 1947 before this court. The Hon'ble Gujrat High Court in the aforesaid case of Baraiya Vallabhbbhai Odhavjibhai (*supra*) in Para. 5 & 8 has held as under;

“5. Before that, this Court has observed the law which is relating to the question raised before this Court in case of Food Corporation of India Workers' Union 2001 1 GLH 90. (*Supra*), this Court has observed, in Para.14, as under:

I have considered the submissions of all the learned advocates. The question is that yet no notification has been issued by the appropriate Government prohibiting labour contract in the field of the FCI at Gandhidham Depot and that the respondent No. 6 is having legal and valid license of engaging contract labour. These are the facts which are not in dispute between the parties. Rest of the averments are in dispute between the parties. The prayers of the petitioner union either to abolish the contract system or to direct the respondent corporation to absorb the members of the petitioner union as a regular employee in such a situation cannot be entertained by this Court because all these are the disputed questions of fact. In such a situation, the petitioner union can raise industrial dispute under the Industrial Disputes Act, 1947 on the ground that the contract labour system is camouflage, sham and bogus. It is also open for the petitioner union to approach the machinery under the provisions of the Contract Labour (Regulation and Abolition) . Act, 1970 with a prayer to issue notification for prohibiting labour contract system at Gandhidham. According to me, the petitioner union can simultaneously approach the machineries under both the legislations namely Industrial Disputes Act as well as the Contract Labour (Regulation and Abolition) Act, 1970 Similar situation has arisen in past before this Court in case of Gujarat Mazdoor Panchayat v. State of Gujarat reported in 1992 (2) LLJ 486. In Paragraph 29 and 30 of the decision, division bench of this Court has held as under :

It, therefore, becomes clear that the references for declaration that workmen are direct employees of the principal employer and the intermediary contractor is a camouflage will have to be adjudicated upon on their own merits under the ID Act and they operate in their, own field, viz. in the personal field i.e. personal relation between the workmen on the one hand and the principal employer on the other, while references for abolition of contract labour system under Section 10 of the Act would operate in their own field and they touch upon the industrial activities themselves, their nature and upon the question whether such activities can be allowed to be subject to contract labour system or not. Thus, former references investigate upon and cover personal relationship between the contesting parties while the latter references deal with objective aspects of industrial activities as such. These two types of references operate in different fields and they do not overlap nor do they intermix and both these types of references can be considered on their own merits under the respective Acts by the respective appropriate authorities.

8. In view of the above observations made by this Court, confirmed upto Apex Court and considering the facts of the present case which are almost same and similar that all the petitioners are working with labour contractor for more than 10 to 15 years and some of them are working for more than 2 to 3 years in different spell with different contractors, the question is that, whether petitioners are entitled the protection while exercising the powers under Article 226 of the Constitution of India during the pendency of industrial dispute which has been raised by petitioners through Union. This aspect, in detailed, discussed by this Court in case of Food Corporation of India Workers' Union (*supra*). Therefore, according to my opinion, relying the earlier decision as referred above in case of Food Corporation of India Workers' Union (*supra*), It is directed to the Assistant Commissioner of Labour (Central) to initiate the proceedings in respect to dispute raised by Gujarat Rajya Shramjivi Karmachari Union by letter dated the 1st July 2006 and pass appropriate orders after giving reasonable opportunity to the respective parties under Section 12(4) of I.D. Act, 1947 within a period of six weeks from the date of receiving the copy of this order. It is further directed to the appropriate Government Labour Department (Central) to take decision on report received from Assistant Commissioner of Labour (Central) under Section 12(5) of I.D. Act, 1947 within a period of one month from the date of receiving the said report under Section 12(4) of I.D. Act, 1947 from the Assistant Commissioner of Labour."

In view of the settled position of law, the case is maintainable before this court, since the workmen have raised the question of nature of the contract between the management and the Labour Contractors as sham and bogus. The further contention raised by the management that the Court cannot travel beyond the reference and the Court has to decide the matter within four corners of the reference made by the appropriate Govt. It further submitted that additional issues framed by the Court are not within the purview of this Court. On this point learned counsel for the management has placed his reliance on the cases of their Workmen Represented by Surendra Rai, Area Secretary, Rastriya Colliery Mazdoor Sangh *Vrs.* Employer in Relation to the management of Sudamdih Colliery of M/s. Bharat Coking Coal Ltd. 2020 Jharkhand HC, Mukand Ltd. *Vrs.* Mukund Staff and Officers Association 2004 SC and our own Hon'ble High Court in the case of Steel Authority of India Ltd. *Vrs.* Panchu Behera & Ors. 2009 (I) OLR 532.

In the case of Mukand Ltd. *Vrs.* Mukund Staff and Officers Association (*supra*), the Hon'ble Apex Court has held as under;

"We shall now analyse the submissions made by the learned senior counsel appearing on either side with reference to the pleadings, documents, records and also with reference to the judgments cited.

The reference is limited to the dispute between the Appellant- Company and the 'workmen' employed by them.

We have already referred to the order of Reference dated the 17th February 1993 in paragraph *supra*. The dispute referred to by the order of Reference is only in respect of workmen employed by the appellant-Company. It is, therefore, clear that the Tribunal, being a creature of the Reference, cannot adjudicate matters not within the purview of the dispute actually referred to it by the order of Reference. In the facts and circumstance of the present case, the Tribunal could not have adjudicated the issues of the salaries of the employees who are not workmen under the Act nor could it have covered such employees by its award. Even assuming, without admitting, that the Reference covered the non-workmen, the Tribunal, acting within its jurisdiction under the Act, could not have adjudicated the dispute insofar as it related to the 'non- workmen'."

Law is well settled that the industrial adjudicators have to exercise their jurisdiction within the four corners of the reference made to it by the appropriate Govt. I have carefully gone through the facts and ratio decided by the Hon'ble Apex Court and other High Courts and the facts and circumstances of this case is quite distinguishable from the cases refereed above. So the ratio decided in the said cases in my humble consideration are not applicable to the present case in hand. Clause 4 of S. 10 of the I.D. Act, 1947 reads as follows;

“Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the case may be, shall confine its adjudication to those points and matters incidental thereto.”

While framing additional issues, this Court carefully gone through the aforesaid provision of the I.D. Act, 1947. The additional issues, so framed are incidental to the reference made by the appropriate Govt. and required for proper and just decision of the case, basing on the pleadings of both the parties. So there is no deviation of settled legal principles as laid down by the Hon'ble Apex Court and different High Courts. Further, on perusal of case record, it is found that the management has filed an amendment petition seeking to amend the show cause, which was allowed vide order dated the 20th January 2023. After filing of amended show cause, the workmen have filed their rejoinder. Then the management and the workmen have filed their draft issues, praying therein to add further draft issues for just disposal of the case. Accordingly, the court framed the additional issues basing on the pleadings of both the parties. The management has never challenged the said order whereby additional issues are framed. Moreover the management has also filed petition for drafting of additional issues. So the submission raised by learned counsel for the management has no force for the reasons stated above, that to at the time of argument.

11. Next come to the Issue No.(a) whether the denial by the management of the Senior General Manager (Elect.), Upper Kolab Hydro Electrical Project, OHPC, Bariniput, Dist. Koraput for regularization of service of Shri P. K. Dwibedy and 31 other contract workmen is legal and/or justifiable? Fact admitted that the 1st party management is under the Odisha Hydro Power Corporation Ltd. (O.H.P.C), which is a Public Limited Company of Govt. of Odisha, registered under the Indian Companies Act, 1956. The Upper Kolab Hydro Electric Project (UKHE Project) and Potteru Small Hydro Electric Project (Potteru Project) are under the control of the management. In order to undertake temporary works in the Potteru Project, the management had made agreement with successful registered Labour Contractors from time to time to provide labourers to engage them in different works as and when necessary as evident from Ext.1. The recent work Order No. 4230 (WE), dated the 21st October 2021, the second party workman were engaged by the Labour Contractors as per requirement of the work and wages were paid to them by the labour contractors as per the norms of the Govt. of Odisha. It is also admitted fact that the workmen are engaged as unskilled labourers as evident from Ext.2 and other documents relied on by the workmen, except some of the workmen. The learned counsel for the workmen submitted that the management has assured the workmen for their absorption into regular roll but inspite of serving a petty long period of time, with utmost satisfaction, they are deprived of their legitimate claims. He further submitted that though labour contractors are changed, the workmen are the same from the inception of the project till today they are working under the management at different places of the management. He submitted that by non-regularizing the workmen after serving for a long period, the management has resorted to unfair labour practice. Learned Counsel for the management has submitted that the workmen have never assured for regularization of their service. Moreover,

from the very beginning they, with all information and own volition worked for the management as contract labourers. He further submitted that since the present workmen are contract labourers, their service conditions are guided under the provision of CLARA, 1970 and they are fully aware about this fact. The question of their regularization come to foreplay, only when the Appropriate Govt. abolish the system of contract labour from the management under Section 10 of the said Act, 1970 by publishing the notification. He submitted that the fact admitted that the workmen never approached before the Govt. for abolition of the same. He submitted that the letters and correspondences between the different offices of the management, admitted in evidence by the workmen, were internal affairs of the management. He submitted that the management never resorted to unfair labour practices, by engaging the workmen for years together under different contractors. He submitted that the nature of service of the workmen are fully within their knowledge and knowing the same that they are contract labourers, agreed to work in the establishment of the management. By doing or allowing the same for the workmen to work in its establishment, had provided the jobs for their betterment. He placed his reliance in the decision of Indian Bottling Plant Sramika Congress Vrs. Indian Oil Corporation & Ors. (*supra*). The Hon'ble High Court of Orissa in the said case in Para. 5 has held as under;

"5. Patiently we have heard Mr. S. Mohapatra and Mr. D. Rath, learned Advocates for the respective parties. Our attention has been drawn to a latest decision of the Apex Court, reported in 1994 3 Supreme Court Cases, 303 S.K. Panda and Ors. v. Steel Authority of India and Ors., particularly to paragraphs, 5, 6 and 7. The entire facts and the ratio of the decision have been incorporated. It has been found by the Apex Court in clear and unequivocal terms that between the principal employer and the employees of the contractors, there is no relationship. In an appropriate case the appropriate Government under Section 10 of the I.D. Act should consider the several factors for abolition of the contract labourers in the industry concerned. Neither the Act nor Rules framed by the Central Govt. or by the appropriate Government provide that upon abolition of the contract labour, the labourers would be directly absorbed by the principal employer. From the said decision, it is clear that the doubts have been set at rest that it is not for the Court to enquire into the question and to decide whether the employment of contract labour in any process, operation or other work in any establishment should be abolished or not. That has to be decided by the Government after considering the relevant aspects as required by Section 10 of the Act. The Apex Court further held that with the passage of time and purely with a view to safeguard the interests of workers, many principal employers while renewing the contracts have been insisting that the contractor of the new contract retain the old employees. In fact, such a condition is incorporated in the contract itself. However, such a clause in the contract which is benevolently inserted in the contract to protect the continuance of the source of livelihood of the contract labour cannot by itself give rise to a right to regularisation in the employment of the principal employer. This aspect of the case should not be considered wither by the High Court or by the Supreme Court under Article 136 as it is not possible for the High Court or the Supreme Court while exercising writ jurisdiction to decide such questions, only on the basis of the affidavits. It need not be pointed out that in all such cases, the labourers are initially employed and engaged by the contractors. As such at what point of time a direct link is established between the contract labourers and the principal employer, eliminating the contractor from the scene, is a matter which has to be established on material produced before the Court. Normally, the Labour Court and the Industrial Tribunal, under the Industrial Disputes Act are the competent fora to adjudicate such disputes on the basis of the oral and documentary evidence produced before them. True it is Mr. Mohapatra has drawn our attention that in the facts of the said case, the Supreme Court made certain directions. Abnormal cases always require abnormal prescription. In the said case the Supreme Court made certain directions taking note of the development of the matter. From the ratio of that decision, it is clear that the

grievance as canvassed before us by filing repeated writ applications as noted above, cannot be effectively decided by the writ Court and the writ petition as opposed is not maintainable. Mr. Mohapatra has further submitted that the main grievance refers to the employment inasmuch as some of the employees of the contractors if found eligible cannot ask for consideration while the permanent posts are being filled up by the principal employer. This last aspect is not covered by the facts in the petition nor is there any prayer. We hold that the concept of the provisions of law to seek the reliefs for regularisation of the employment by the principal worker is uncalled for and the petition as filed is not maintainable. As to the other question for direction to the Central Government to take steps under Section 10 of the Act or reliefs to the employees of the contract employers against the principal employer the same be considered in appropriate cases if the grievances are made."

So relying the ratio decided on the aforesaid decision, it appears to this Court that the contention of unfair labour practice resorted by the management, as raised by the workmen has no force at all. Moreover, the workmen are fully aware of the nature of job, as admitted by them but still continuing in their job. Even when the workmen were given the opportunity to appear in the examination in compliance of the direction of the Hon'ble Court, none have qualified for the same. As discussed in Para. 8 & 9 of this award, the workmen are the contract labourers and the system of contract labour is in vogue in the establishment of the management. Unless, the said system was abolished by complying the provision of CLARA, 1970, the management has no scope to regularize the job of the present workmen. So the denial of the management to regularize the job of the workmen is not illegal.

12. The next reference is whether claiming of regularization of service of Shri P. K. Dwibedy and 31 other contract workmen of Potteru Electric Project, Gopakonda in the establishment of the Senior General Manager (Elect.), Upper Kolab Hydro Electrical Project, OHPC, Bariniput, Dist-Koraput in the regular establishment is legal and/or justified? If not, what relief they are entitled to? The workmen has demanded their regularization into the establishment of the management. Fact reveals that the Potteru Project is no more in operation since 2008 as admitted by W. W.1 in Para.106 of his evidence. This fact also found corroboration from the evidence of W.W.2 & 3 during their evidence. Even the management has decided to sell the said project and the proposal is waiting for approval from the Govt. The present workmen had approached before the Hon'ble Court by filing the writ petition against the decision of the management to sell the project, where the Hon'ble Court has stayed the process, which is still pending for its final disposal. The witnesses of the workmen have categorically admitted that they are working under the present contractor M/s Daitari Sia, who is paying their wages. So from the admission of the workmen, the status of the present workmen is still contract labourers. W.W.1 in Para. 111 of his evidence has admitted that they have not filed any application or petition before any forum for abolition of system of contract labour from the establishment of the management. Even he admitted in Para. 151 that they have not filed any document showing that the Service Rules as applicable to the regular employees of the management, is also applicable to them. Even fact reveals that when in compliance of the direction of the Hon'ble Court, the workmen were given the chance to participate in the recruitment process by relaxing the age limit, it was found that except W.W.1, no one has requisite qualifications. It is further evident from Ext. V that said W.W.1, had failed to qualify the computer based test conducted by the management for absorption of said workman into regular roll. So in such circumstances, the demand of the workmen for their regularization into the establishment of the management is not tenable under law.

13. The next contention of the workmen that they are working in the perennial nature of jobs, even though the labour contractors are changed from time to time, they are continued to work under the management since long. It was further pleaded that the nature of jobs, they are discharged at different places of the management was satisfactory as reveals from the report of the officers of the management as evident from Ext.11. They further submitted that they are working in the construction of Potteru Project for years together and have gained vast experience in the said works as found from the report of Manager (El.) I/C, Potteru Electrical Division, Kalimela vide its Letter No. 26, dated the 1st October 2001, marked as Ext.8. Learned counsel for the workmen has submitted that the present workmen are performing the duties of ward and watch, sanitation, upkeep and even running of drainage pumps etc. in the establishment of the management as stated by M.W. 2 & 3. He submitted that, the works are perennial in nature and the workmen are working the same since long and they have accrued a right to be absorbed into the regular roll of the management. In support of his submission, he placed his reliance on the ratio laid down by the Hon'ble Apex Court in the case of Mahanadi Coal Fields Ltd. (*supra*). In the said case the Hon'ble Apex Court in Para. 22 has held that:

"22. The above referred facts speak for themselves, and that is the reason why the Tribunal has come to a conclusion that the denial of regularization of the 13 workmen is wholly unjustified. As stated previously, we do not find any grounds in the artificial distinction asserted by the appellant. However, as the case was argued at length we thought it appropriate to give reasons for rejecting the appeals.

What we have referred to hereinabove are all findings of fact by the Tribunal as affirmed by the High Court. In view of the concurrent findings of fact on the issue of nature of work, the continuing nature of work, continuous working of the workmen, we are of the opinion that there is no merit in the appeals filed by the appellant."

The fact of the Mahanadi Coal Fields Ltd. (*supra*) is completely different from the present case. In the said case there was a settlement between the management and contract labourers based on the provisions of Clauses 11.5.1 and 11.5.2 of the National Coal Wage Agreement-IV dated the 27th July 1989. Under these clauses, it was agreed that the employer shall not engage contract labour with respect to jobs which are permanent and perennial in nature. They also provide that such jobs shall be executed through regular employees. Here in this case no such agreement was executed by the Authority for work in the establishment of the management. Section 10 (2) (b) of the CLARA, 1970 speaks of the term 'perennial' in nature. The said S. 10 of the Act, 1970 reads as follows;

#### 10. Prohibition of employment of contract labour.-

(1) Notwithstanding anything contained in this, Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as—

(a) Whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment.

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) Whether it is done ordinarily through, regular workmen in that establishment or an establishment similar thereto;

(d) Whether it is sufficient to employ considerable number of whole time workmen.

Explanation.—If, a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

The explanation to the Section 10 (2) (b) of the Act, 1970 provides that in order to decide whether a job is of perennial nature or not, the decision of the appropriate Govt. is required. Here in this case no such document or material is produced by the workmen showing that the appropriate Govt. has declared the nature of work performed by them are 'perennial' in nature. Merely the work was carried out for petty long period, *ipso facto* not qualified the term 'perennial' in nature.

14. The plea of the workmen that they are working in the establishment of the management for petty long period of time. They further contended that some of them have completed more than 25 years of job as contract labourers since 1993. They further averred that although the name sake contractors were changed, the workmen are the same and they rendered unblemished service to the management from the construction of the project till its stage commissioning and they still working at different projects of the management. Even some of the workmen are working at the office of the management at Bariniput. Hence they claimed that they accrued a right to be regularized in view of their long term work with the management.

The Hon'ble Apex Court in the case of Chief Executive Officer, Zilla Parishad, Thane & Ors. Vrs. Santosh Tukaram Tiware & Ors. (2022) 11 SC CK 0064, in Para. 6.2 has held as under;

"6.2 Merely because respondent No.1 continued in service for longer period on contractual basis the High Court ought not to have passed the order of regularization more particularly, when a policy decision was taken to avail the services of the driver by the agency/contractor and that the appointment of respondent No. 1 and other similarly situated drivers was not made after any selection procedure. The appointment of respondent No. 1 was purely on stopgap and on contractual basis. Under the circumstances, the High Court has committed a very serious error in ordering regularization as well as quashing and setting aside order dated the 15th July 2021 by which on the contract being awarded to M/s Rakshak Security Services and Systems Pvt. Ltd., the services of respondent No. 1 was put to an end."

Similar view has expressed by the Hon'ble Apex Court in the recent case of Ganesh Digamber Jambhrunkar & Ors. Vrs. The State of Maharashtra & Ors. 2023 LiveLaw (SC), 801. The Hon'ble Court has held as under;

"The issue with which we are concerned in this petition is as to whether by working for a long period of time on contractual basis, the petitioners have acquired any vested legal right to be appointed in the respective posts on regular basis. We appreciate the argument of the petitioners that they have given best part of their life for the said college but so far as law is concerned, we do not find their continuous working has created any legal right in their favour to be absorbed. In the event there was any scheme for such regularization, they could have availed of such scheme but in this case, there seems to be none. We are also apprised that some of the petitioners have

applied for appointment through the current recruitment process. The High Court has rejected their claim mainly on the ground that they have no right to seek regularization of their service. We do not think any different view can be taken.”

So in view of settled principles of law, the claim of regularization by the workmen on the basis of their long service to the management, not sustainable in law.

15. The next contention of the workmen that one Dhanu Harijan, a temporary employee, working with the management was regularized but in case of the present workmen have deprived their claims. They further submitted that the management in collaboration of APPGCL (now APGENCO), in their joint project at Machhkund, had regularized five similarly placed workmen as evident from Ext.69, but in their case, the management has taken callousness stand. During cross-examination, W.W.1 has failed to say the names of those five persons, who were regularized by the management and their working background. On perusal of Ext. 69, it is found that five persons, were given temporary appointments by the APGENCO, in compliance of the order of the Hon’ble High Court of Orissa in OJC No. 7389/2000. When the workmen have contended that five similarly situated workmen have been given permanent status, but no document has filed to support the said claim. Moreover, the document vide Ext. 69 reveals they were given temporary jobs under permanent roll. The case of those five persons are not similar as claimed by the workmen. They were given job by APGENCO on the direction of the Hon’ble Court. Similarly in the case of Dhanu Harijan, no document or material placed by the workmen to prove that he was absorbed in the regular roll of the management. However, Ext. 2 find the name of Dhanu Harijan in Column No. 2, recommended for regularisation, there is no material or evidence to prove that the said recommendation was accepted and he was taken to regular establishment of the management. So in view of the above discussion, the contention as raised by the workmen that others were regularized but they were deprived of their rights, has no legs to stand.

16. Learned Counsel for the Workmen has submitted that the ‘economic control’ of the present workmen is with the principal employer, the management in the present case, even though the workmen are the labourers of the name sake contractors. He further submitted that the workmen are working under the control and supervision of the officers of management which evident from several documents, as relied on by the workmen. He contended that the workmen are engaged for the production of given result for the principal employer. The role of those dubious contractors are shadow on the relationship of the workmen and the management. He submitted that the workmen are the employees of the principal employer in real terms by lifting the veil of the system of contract labour. In support of his submission he placed his reliance in the case of Hussainbhai, Calicut. (*Supra*). The Hon’ble Apex Court in the said case in Para. 5&6 has held as under;

“The true test may, with brevity, be indicated once again. Where a worker group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers’ subsistence, skill and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have have immediate or direct relationship *ex contractu* is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like, may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43- A of the Constitution. The court must be astute to avoid mischief and achieve the purpose of the law and not be misled by the maya of legal appearances.



If the livelihood of the workmen substantially depends on labour rendered to produce goods and services for the benefits and satisfaction of an enterprise, the absence of direct relationship or the presence of dubious intermediaries or the make-believe trappings of detachment from the management cannot snap the real-life bond. The story may vary but the inference defies ingenuity. The liability cannot be shaken off.”

On careful consideration of the ratio of the said case, this court, in its humble submission, found that the fact and situation genesis of the said case is quite distinguishable from the present case. The said case was of the origin when there was no enactment of the CLRA, 1970. But here in this case the labour contractors are registered and having license under the said Act, 1970. Fact admitted that the workmen are the contract labourers and was engaged by different contractors. So taking benefit of the ratio in the said case, the situation and position of the workmen cannot be changed. Hence the submission of the learned counsel for the workmen has no effect at all in view of the fact and circumstances of the present case.

17. Learned counsel for the workmen then placed his reliance on the ratio decided in *Bhilwara Dugdh Utpadak Sahakari S. Ltd. (Supra)*. The Hon'ble Apex Court in aforesaid case in Para. 4&5 has held as under;

“In order to avoid their liability under various labour statutes employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a contractor. It is high time that this subterfuge must come to an end. Labour statutes were meant to protect the employees/workmen because it was realised that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited.

However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees.”

The Hon'ble Apex Court in the case of *Steel Authority of India Ltd. V. National Water Front... (supra)* has held that;

An analysis of the cases, discussed above, shows that they fall in three classes; (i) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the Industrial adjudicator/Court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered; (ii) where the contract was found, to be sham and nominal rather a camouflage in which case the contract labour working in the establishment of the principal employer was held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited; (iii) where in discharge of a statutory obligation of maintaining canteen in an establishment the principal employer availed the services of a contractor and the courts have held that the contract labour would indeed be the employees of the principal employer.

In a three-Judge Bench decision of this Court in *Hussain bhai's case (supra)*, the petitioner who was manufacturing ropes entrusted the work to the contractors who engaged their own workers.

When, after some time, the workers were not engaged, they raised an industrial dispute that they were denied employment. On reference of that dispute by the State Government, they succeeded in obtaining an award against the petitioner who unsuccessfully challenged the same in the High Court and then in the Supreme Court. On examining various factors and applying the effective control test, this court held that though there was no direct relationship between the petitioner and the respondent yet on lifting the veil and looking at the conspectus of factors governing employment, the naked truth, though draped in different perfect paper arrangement, was that the real employer was the management not the immediate contractor. Speaking for the Court, Justice Krishna Iyer observed thus:- Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38,39,42,43, and 43-A of the Constitution. The court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances..... Of course, if there is total dissociation in fact between the disowning management and the aggrieved workmen, the employment is, in substance and in real-life terms, by another. The managements adventitious connections cannot ripen into real employment. This case falls in Class (ii) mentioned above.

It was further held that;

(5) On issuance of prohibition notification under Section 10 (1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of Para. 6 hereunder.

The Hon'ble Court further discuss the ratio decided in the case of Basti Sugar Mills case (*supra*) in the following terms;

The decision of the Constitution Bench of this Court in Basti Sugar Mills case (*supra*) was given in the context of reference of an industrial dispute under the Uttar Pradesh Industrial Disputes Act, 1947. The appellant Sugar Mills entrusted the work of removal of press mud to a contractor who engaged the respondents therein (contract labour) in connection with that work. The services of the respondents were terminated by the contractor and they claimed that they should be reinstated in the service of the appellant. The Constitution Bench held, The words of the definition of workmen in Section 2(z) to mean any person (including an apprentice) employed in any industry to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied are by themselves sufficiently wide to bring in persons doing work in an industry whether the employment was by the management or by the contractor of the management. Unless however the definition of the word employer included the management of the industry even when the employment was by the contractor the workmen employed by the contractor could not get the benefit of the Act since a dispute between them and the management would not be an industrial dispute between employer and workmen. It was with a view to remove this difficulty in the way of workmen employed by contractors that the definition of employer has been extended by sub-clause (iv) of Section 2(i). The position thus is: (a) that the respondents are workmen within the meaning of Section 2(z), being persons employed in the

industry to do manual work for reward, and (b) they were employed by a contractor with whom the appellant company had contracted in the course of conducting the industry for the execution by the said contractor of the work of removal of press mud which is ordinarily a part of the industry. It follows therefore from Section 2(z) read with sub-clause (iv) of Section 2(i) of the Act that they are workmen of the appellant company and the appellant company is their employer.”

So in view of the ratio as laid down by the Constitution Bench of the Hon'ble Apex Court in the aforesaid case, the position in case of contract labourers has been settled to its fullest extent. As discussed, the workmen have failed to establish the contract between the management and labour contractors are sham or bogus, a smokescreen or camouflage, which deprived their legitimate rights. Hence the submission of the learned counsel for the workmen taking the support of the case of Bhilwara Dugdh Utpadak Sahakari S. Ltd. (*Supra*), has appears not much help for them.

18. So in view of the above analysis and relying on the principles laid down by the Hon'ble Apex Court and different High Courts, in the cases mentioned above, this court come to the conclusion that the workmen have failed to establish that contracts, are sham and bogus, a camouflage document, only to deprive their legitimate claim. They further failed to prove that the so called contractors are nothing but the agents of the management and only name sake, become an instrumentality in the hands of the management. They failed to establish that there exists the relationship of master and servant or employer and employee between the management and the second party workmen. They further failed to prove that their non-regularization by the management is illegal and their demand for regularization is justified by adducing cogent evidence. As discussed above, the present workmen are the contract labourers and they can putforth their grievance before the Appropriate Government for abolition of system contract labour from the establishment of the management and then claim for their regularization as per law. Since the workmen have failed to establish their case, they are not entitled for any relief, as refereed. Accordingly, it is ordered.

#### AWARD

The reference be and the same, is rejected on contest against the management. Considering the facts and circumstances of the case, no order as to costs.

Dictated and corrected by me.

BIDYADHAR PRUSTY  
29-04-2024  
Presiding Officer  
Labour Court, Jeypore

BIDYADHAR PRUSTY  
29-04-2024  
Presiding Officer  
Labour Court, Jeypore

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[No. 4857–LESI-IR-ID-0051/2021-LESI.]

By order of the Governor  
NITIRANJAN SEN  
Additional Secretary to Government

List of witness examined on behalf of 2nd Party Workmen.

W.W.1- Prasant Kumar Dwibedy.

W. W.2- R. Indu Bhusan.

W.W.3- Ajit Kumar Behera.

List of witness Examined on behalf of 1st Party Management.

M.W.1- Kamalesh Swain.

M.W.2- Fani Mangaraj.

M.W.3- Maheswar Behera.

List of documents marked as Exhibits for the 2nd Party Workmen.

Ext. 1- Photocopy of Letter No. 3378, dated the 31-10-1994 issued by the Executive Engineer, Potteru Electrical Divn., Kalimela to the SE(Elc.), UKHEC, Bariniput for engagement of construction labourers for maintenance works during construction of PSHEP.

Ext. 2- Photocopy of Letter No. 1837 dt. 25-8-1997 regarding submission of information required for the scheme for absorption of NMR/DLR job contract workers under regular establishment of the management.

Ext. 3- Photocopy of Letter No. 36/97/3656 (36)/PE., dt. 16-12-1997 of Govt. of Orissa, Department of Public Enterprises.

Ext. 4- Photocopy of Letter in Memo. No. 2248, dt. 5-2-1991 of EIC, Electrical Project, Bhubaneswar to the Energy Dept., Govt. of Odisha.

Ext. 5- Photocopy of Letter No.11990 dt. 30-7-1991 of creation of Civil and Electrical Division, Power Plant Division-III of UKHEP.

Ext. 6- Photocopy of Letter No. 3365 dt. 25-8-99 of Sr. General Manager (E) UKHEP, Bariniput.

Ext. 7- Photocopy of Letter No. 5085, dt. 6-10-2001 sanction of staff for O & M of PH-I & II PSHEP, Gompakonda.

Ext. 8- Photocopy of Letter No. 26, dt. 01-10-2001 of the Manager, Electrical, Potteru Electrical Divn., Kalimela to the management for posting of staff.

Ext. 9- Photocopy of representation of workmen for their regularization in the establishment for operation & maintenance of PSHEP, Gompakonda.

Ext. 10- Photocopy of Letter No. 856, dt.15-3-2002 of the Manager, Electrical, Potteru Electrical Divn., Kalimela to the management, forwarding the representation of the workmen.

Ext. 11- Photocopy of Letter No. 48, dt.10-5-2002 of OHPC.

Ext. 12- Photocopy of Letter No. 2282, dt. 8-5-2002 of management, Bariniput to the Director, OHPC regarding agenda for 12th review meeting.

Ext. 13- Photocopy of Letter No. 75, dt. 01-06-2002 of OHPC, Bariniput regarding staffing pattern.

Ext. 14- Photocopy of proceeding of the Meeting of the Committee of Board of Directors held on 11 -7-2002.

Ext. 15-Photocopy of Letter No. 9755 dtd. 12-9-2003 of HRD, Bhubaneswar to the management.

Ext. 16- Photocopy of minutes of meeting held on 28-10-2003 regarding manpower assessment for PSHEP.

Ext. 17- Photocopy of Letter No. 6369(WE) dt. 27-12-2004 of the management to the Director, OHPC, BBSR regarding law and order situation at Potteru Project and engagement of contract labour on consolidated wages.

Ext. 18- Photocopy of Experience Certificate issued by the OHPC Officers Letter No. 5494, dt. 2-12-2005.

- Ext. 19- Photocopy of programme for Test Synchronisation of PH-I of PSHEP on dt. 28-2-2007.
- Ext. 20- Photocopy of Letter No. 37, dt.19-1-2008 of Manager, Potteru Electrical Divn., Kalimela regarding running of Power House-I at PSHEP, Gompakonda.
- Ext. 21- Photocopy of order in W.P. (c) No.11828 of 2009 of Hon'ble High Court of Orissa, Cuttack.
- Ext. 22- Photocopy of duty chart given by the Junior Manager, PSHEP, Kalimela.
- Ext. 23- Photocopy of Experience Certificate issued by OHPC Officers, dtd. 5-6-2010 in favour of Ajit Kumar Behera.
- Ext. 24- Photocopy of Letter No. 9449 dt. 25-10-2010 of Dept. of Energy, Govt. of Odisha regarding regularisation of service of workers working at PSHEP, Kalimela.
- Ext. 25- Photocopy of Letter No. 8003, dt. 22-10-2010 of Asst. General Manager (HRD), OHPC Ltd. to the Addl. Secretary, Dept. of Energy, Govt. of Odisha regarding taking of appropriate action on grievance petition of the workmen.
- Ext. 26- Photocopy of representation, dtd. 18-8-2011 of the workmen for regularisation of their service address to Director (HRD), BBSR.
- Ext. 27- Photocopy of Letter No. 9126, dt.13-11-2009 of OHPC Ltd., BBSR to the management.
- Ext. 28- Photocopy of Letter No. 1176, dt. 21-3-2012 of OHPC, Bariniput to the workmen regarding sale of Potteru Project.
- Ext. 29- Photocopy of petition filed by the workmen in W.P.(c) No. 9841/2012 before the Hon'ble Court.
- Ext. 30- Photocopy of counter affidavit in W.P. (c) No. 9841/2012 filed by management.
- Ext. 31- Photocopy of order of the Hon'ble Court in Misc.Case No. 8527/2012 arising out of W.P. (c) No. 9841/2012, filed by workmen.
- Ext. 32- Photocopy of Letter No. 01 dt.10-5-2012 of the Secretary, PKJBSS to the Asst. Gen. Manager, UKHEP, OHPC Ltd. regarding their absorption under OHPC Ltd.
- Ext. 33- Photocopy of Letter No.05 dt. 16-7-2012 of the Secretary, PKJBSS to the Manager (Elct.), Potteru Electrical Divn., Kalimela for confirming the nature of work of the workmen.
- Ext. 34- Photocopy of Letter No. 03, dt. 28.6.2012 of the Secretary, PKJBSS to the MD, OHPC Ltd., BBSR for regularisation of workmen of Potteru Electrical Division, Kalimela.
- Ext. 35- Photocopy of Letter No.12, dt. 29-9-2012 of the Secretary, PKJBSS to the Labour Commissioner, BBSR for Grievance Petition of their regularization.
- Ext. 36- Photocopy of representation, dtd. 24-1-2017 of the Secretary, PKJBSS address to CMD, OHPC, BBSR for their regularization.
- Ext. 37- Photocopy of Writ Petition filed by Gen. Sec., PKJBSS on behalf the workmen in W.P. (c) No. 4799/2017.
- Ext. 38- Photocopy of Judgement of the Hon'ble Court in W.P. (c) No. 4799 of 2017.
- Ext. 39- Photocopy of Letter No. 05, dtd. 27-05-2017 address to CMD, OHPC, BBSR by the present workmen for their regularization.
- Ext. 40- Photocopy of Letter No. 5182, dt.17-7-2017 of the Director, HRD, OHPC Ltd. to the Secretary, PKJBSS.
- Ext. 41- Photocopy of reply Letter No.10, dtd.16-9-2017 submitted to the Director, HRD, OHPC Ltd. from Sec., PKJBSS.

- Ext. 42- Photocopy of authorisation letter issued to A. K. Bairiganjan vide Letter No. 39, dt.13-2-2018 by the Head Master, Project High School, Bariniput.
- Ext. 43- Photocopy of Letter No. 4486, dt.15-9-2017 of DGM, UKHEP, Bariniput to the Financial Adviser, UKHEP, Bariniput.
- Ext. 44- Photocopy of petition filed in W.P. (c) No. 3402 of 2019 by workmen.
- Ext. 45- Photocopy of order of the Hon'ble High Court of Orissa in W.P. ( c) No. 3402/2019.
- Ext. 46- Photocopy of application, dtd. 16-4-2019 filed by the workmen through the Secretary, PKJBSS to DLO, Malkangiri.
- Ext. 47- Photocopy of order of the Hon'ble High Court of Orissa in W.P.(c) No. 8984/2019 dt.16-05-2019.
- Ext. 48- Photocopy of representation, No.04 (4), dt. 28-6-2019 of Sec., PKJBSS, Gompakonda address to the Principal Sec., Dept. of Energy, CMD, OHPC, Director (HRD), OHPC and SGM, UKHEP.
- Ext. 49- Photocopy of representation, dt. 3-7-2019 of Sec. PKJBSS, Gompakonda addressed to DLO, Malkangiri.
- Ext. 50- Photocopy of petition in W.P. (c) No.7372 of 2019 filed by workmen.
- Ext. 51- Photocopy of petition W.P. (c) No.7428/2019 filed by the workmen.
- Ext. 52- Photocopy of counter affidavit filed before the High Court of Orissa in W.P. (c) No. 7482/2019 by the management.
- Ext. 53- Photocopy of Letter No.10297 dt. 8-11-2019 submitted by the GM, (HR) to the management regarding discussion held, dtd. 27-9-2019 on the charter of demand of OBKM at OHPC Corporate Office.
- Ext. 54- Photocopy of Letter No. 4513, dt. 26-5-2020 of GM(HR), OHPC to the Unit Head, UKHEP, Bariniput forwarding the grievance petition of the workmen regarding regularisation of their service.
- Ext. 55- Photocopy of notice in Memo. No.1698, dt. 09-05-2019 of DLO, Malkangiri to the management for submitting views on the application of the workmen for conciliation.
- Ext. 56- Photocopy of notice in Letter No. 2164, dt. 03-07-2019 of DLO, Malkangiri to the management for submitting views on the application of the workmen for conciliation.
- Ext. 57- Photocopy of Letter No. 2745, dt. 5-9-2019 of DLC, Malkangiri to the Unit Head, Upper Kolab HEP, OHPC Ltd., Bariniput for Complaint Petition of workmen.
- Ext. 58- Photocopy of Letter No.1157, dt. 6-10-2020 to Sr. Gen. Manager (Ele.), Upper Kolab,HEP, Bariniput for regularisation of service of workmen.
- Ext. 59- Photocopy of Letter No.16, dt. 6-10-2020 of PKJBSS, Kalimela to the DLO, Malkangiri.
- Ext. 60- Photocopy of Letter No. 91, dt. 15-1-2021 of DLC, Malkangiri to the management regarding submission of documents of the workmen for non-regularisation of their service.
- Ext. 61- Photocopy of 161, dt. 8-2-2021 of DLC, Malkangiri regarding postponed of enquiry date to 10-2-2021 in the matter of complaint petition of the workmen.
- Ext. 62- Photocopy of Letter No. 472, dt. 15-3-2021 of DLC, Malkangiri to the management.
- Ext. 63- Photocopy of Letter No. 31, dt. 31-3-2021 of the Secretary, PKJBSS to the DLC, Malkangiri.
- Ext. 64- Photocopy of detailed list of Labour Contractors engaged from 1993 to 2021 at Potteru Project.
- Ext. 65- Photocopy of Letter No.1524 (2), dt.16-6-2021 of DLO, Malkangiri to the management and the workmen about submission of conciliation failure report.

- Ext. 66- Photocopy of Letter No. 2916, dt. 8-4-2022 address to Addnl. Sec. to Govt. of Odisha, Labour & E.S.I. Dept.
- Ext. 67- Photocopy of Advertisement No. 03, dt. 27-9-2022 of OHPC Ltd., BBSR for recruitment of different posts in OHPC.
- Ext. 68- Photocopy of Advertisement No. 04, dt. 27-10-2022 of OHPC Ltd, BBSR for recruitment of different posts in OHPC.
- Ext. 69- Photocopy of Letter No. 94, dt. 19-2-2013 of APPGC Ltd. regarding regularization of five numbers of workers at Machhkund Project.
- Ext. 70- Original Identity Card of Shri Govinda Jani.
- Ext. 70/1- Original Identity Card of Shri Nila Paraja.
- Ext. 70/2- Original Identity Card of Fatima Begum.
- Ext. 70/3- Original Identity Card of Shri Laxman Gadba.
- Ext. 70/4- Original Identity Card of Shri Ajit Ku. Behera
- Ext. 70/5- Original Identity Card of Shri P .K.Dwibedy
- Ext. 70/6- Original Identity Card of Shri Muka Madkami
- Ext. 70/7- Original Identity Card of Shri K.C.Nayak
- Ext. 70/7- Original identity Card of Shri K.C.Nayak
- Ext. 70/8- Original Identity Card of Shri N.C.Panda
- Ext. 70/9- Original Identity Card of Shri K.Podiami
- Ext. 70/10- Original Identity Card of Shri H.G. Mohanty
- Ext. 70/11- Original Identity Card of Shri Arajun Pujari
- Ext. 70/12- Original Identity Card of Shri K.Raddy
- Ext. 70/13- Original Identity Card of Shri A.Behera
- Ext. 70/14- Original Identity Card of Shri Sinu Pangi
- Ext. 70/15- Original Identity Card of Shri B.Madhi
- Ext. 70/16- Original Identity Card of Shri R.N.Swani
- Ext. 71- Photocopy of Letter No. 67, dt. 31-8-2013 of AGM (Elc.), PED, Kalimela for engagement of skilled & unskilled workmen to the management.
- Ext. 72- Original Experience Certificate of Shri P. K. Dwibedy.
- Ext. 73- Photocopy of vehicle logbook of the office of PSHEP, Kalimela for the month of Dec. 2003 and August 2004.
- Ext. 74- Original Identity Card of Shri S. C. Pradhan.
- Ext. 74/1- Original Identity Card of Shri R. K. Padhi.
- Ext. 74/2- Original Identity Card of Shri P.C. Hial.
- Ext. 74/3- Original Identity Card of Shri C.V. Sethi.
- Ext. 74/4- Original Identity Card of Shri Arjuna Pujari

#### List of documents marked as Exhibits for the 1st Party Management

- Ext. A- Photocopy of Agreement No. 01F2/2021-22, dt. 25-10-21 between the management and labour contractor.
- Ext. B- Photocopy of Agreement No. 33 F2/2020-21, dt.4-9-2020 between the management and labour contractor.
- Ext. C- Photocopy of Authorisation Certificate of Shri Kamlesh Swain, issued by the Senior GM, UKHEP, Bariniput.
- Ext. D- Photocopy of Authorisation Certificate of Shri Fani Mangaraj, issued by the Senior GM, UKHEP, Bariniput.

- Ext. E- Photocopy of Letter No. 4230, dt. 21-10-21 regarding issuance of work order of HPC, Bariniput in favour of labour contractor M/s Daitari Sia.
- Ext. F- Photocopy of counter affidavit of Prafulla Ku. Sahoo filed in W.P. (c) No. 9841/2012.
- Ext. G- Photocopy of advertisement in Samaj, dt. 30-9-2014 by the management for cancellation of recruitment process.
- Ext. H. Photocopy of counter affidavit of Pranab Kumar Mohanty filed in W.P. (c) No.7372/ 2019.
- Ext. J- Photocopy of counter affidavit of Pranab Kumar Mohanty filed in W.P. (c) No.7482/2019.
- Ext. K- Photocopy of Tax Invoice of labour contractor M/s. Daitari Sia.
- Ext. L- Photocopy of Tax Invoice of labour contractor M/s Shradha Enterprises, dtd. 3-11-2021.
- Ext. M-Photocopy of Letter No. 2570, dt. 6-4-2023 of OHPC, BBSR to P.K. Dwibedy for appearance in Computer Bases Test.
- Ext. N- Photocopy of e-admit card of Shri P.K.Dwibedy.
- Ext. P- Photocopy of attendance sheet of Shri P.K.Dwibedy showing his appearance in CBT.
- Ext. Q- Photocopy of Tax Invoice of M/s. Daitari Sia.
- Ext. R- Photocopy of Tax Invoice of M/s. Daitari Sia.
- Ext. S- Photocopy of Letter dtd. 9-7-21 of M/s Shradha Enterprises, labour contractor addressed to the BM, Canara Bank, Jeypore Branch for payment of wages to the beneficiaries therein.
- Ext. T- Photocopy of Writ Petition in W.P. (c) No. 3402 of 2019 filed by the workmen.
- Ext. V- Photocopy of Letter No. 3397, dt. 12-5-2023 intimating to P. K. Dwibedy regarding result of Computer Based Test held on 16-04-23.
- Ext. W- Photocopy of Letter No. 2466, dt. 15-5-23 intimating to P. K. Dwibedy regarding result of Computer Bases Test held 16-4-23.